

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NEWPORT NEWS DIVISION**

JAY PATRICIA LEGARE,

Plaintiff,

v.

CIVIL NO. 4:18cv144

OFFICER E.F. MORRISEY, *et al.*,

Defendants.

OPINION AND ORDER

This matter comes before the Court on Jay Patricia Legare's ("Plaintiff") Response to Show Cause Order ("Response"). ECF No. 3. For the reasons stated herein, the Court finds that Plaintiff has failed to demonstrate good cause as to why this action should not be dismissed pursuant to Rule 4(m) of the Federal Rules of Civil Procedure. As such, the Court dismisses Plaintiff's Complaint, ECF No. 1, without prejudice.

On November 14, 2018, Plaintiff's Complaint was filed alleging violations of 42 U.S.C. § 1983 and assault and battery. ECF No. 1. The named Defendants include:

Officer E.F. Morrisey,
Officer John Doe, Officer Richard Roe, police officers/supervisors of the city of Newport News, the identity of whom is presently unknown to the plaintiff
City of Newport News.

On February 13, 2019, the Court entered a Show Cause Order noting that the Complaint had not be served within ninety (90) days of the filing of the Complaint. ECF No. 2. As such, the Court ordered Plaintiff to show cause, if any, why this action should not be dismissed pursuant to Rule 4(m) of the Federal Rules of Civil Procedure. *Id.* In its Response, Plaintiff's counsel merely stated as follows: "we lost contact with the Plaintiff from shortly prior to filing this action until

just recently and our attempts to make with her were unsuccessful." ECF No. 3. Plaintiff's counsel further stated that "[i]t appears that during that time the Plaintiff had some medical issues and, additionally, had changed her phone number." *Id.*

Such Response fails to demonstrate good cause. First, the apparent failure of Plaintiff's counsel to maintain contact with Plaintiff from as early as the initial filing of this suit is an entirely insufficient explanation for counsel's failure to serve the Complaint. Further, counsel's representations that Plaintiff apparently "had some medical issues and . . . changed her phone number" do nothing to support a showing of good cause as to the failure to serve Plaintiff's Complaint. As such, the Court finds that Plaintiff's Response to Show Cause Order fails to demonstrate good cause as to why the Complaint should not be dismissed pursuant to Rule 4(m) of the Federal Rules of Civil Procedure.

IV. CONCLUSION

Upon consideration of Plaintiff's Response to Show Cause Order, and upon finding no good cause shown for failure to serve Plaintiff's Complaint, the Court **DISMISSES** Plaintiff's Complaint **WITHOUT PREJUDICE** pursuant to Rule 4(m) of the Federal Rules of Civil Procedure. ECF No. 1.

The Clerk is **DIRECTED** to forward a copy of this Opinion and Order to all Counsel of Record.

IT IS SO ORDERED.



Robert G. Doumar
Senior United States District Judge

Norfolk, VA
February 20, 2019